



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,407	01/22/2001	Ronald Martin Tanner	56932.000007	7309

909 7590 06/09/2006

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER

ART UNIT	PAPER NUMBER
----------	--------------

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/766,407	Applicant(s) TANNER ET AL.	
	Examiner Blaine Basom	Art Unit 2173	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 24 March 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.


TADESSE HAILU
 Patent Examiner

Continuation of 10. Other (including any explanation in support of the above items):

The "STATUS OF AMENDMENTS" section of the brief asserts that "No amendments have been filed subsequent to the Reply to Final Office Action filed on October 14, 2005." 37 CFR 41.37(c)(1)(iv), however, requires that the brief contain a statement of the status of amendments filed subsequent to the final rejection, not a statement of the status of amendments filed subsequent to any replies to the final rejection. In fact, amendments have been filed subsequent to the final rejection (i.e. amendments were filed on 10/14/2005), but the brief fails to contain a statement of the status of these amendments.

The brief comprises a "SUMMARY OF CLAIMED SUBJECT MATTER" section, which comprises a description, with reference to the specification, of the claimed invention. 37 CFR 41.37(c)(1)(v) requires the brief to specifically identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function, and to set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters. Claims 1, 13, and 27, i.e. the independent claim of the application, are not described as required: each means plus function or step plus function of these claims is not identified, and the portions of the specification that describe these functions is not cited. Moreover, the brief comprises separate arguments for dependent claims 6, 7, 8, 18, 19, and 20. The brief, however, also fails to identify and describe the features of these dependent claims, with reference to the specification and drawings.


TADESSE HAILU
Patent Examiner